

PTO/6B/64 (11-03)

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1137(b)
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)		Docket Number (Optional)
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First named inventor: WILLIAM ARTHUR TAYLOR

RECEIVED

Application No.: 10/045,250

Art Unit: 3711 MAY 10 2004

Filed: November 7, 2001

Examiner: OFFICE OF PETITIONS

Title: METHOD OF PLAYING AND PAYING GAMBLING GAMES

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

 Small entity-fee \$ 665.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27. Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of written 37 CFR 1.137(a) Unavoid. Delay (identify type of reply): has been filed previously on December 22, 2003.
 is enclosed herewith.

B. The issue fee and publication fee (if required) of \$ _____.

 has been paid previously on _____.
 is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

01/07/2004 TBESHARI 00000124 10045250
665.00 JP
01/07/2004 TBESHARI 00000124 10045250
665.00 JP

3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

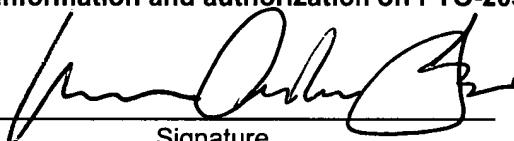
A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

May 4, 2004

Date



Signature

Telephone 303 670-2842

Number: _____

William Arthur Taylor

Typed or printed name

1326 Aspen Drive

Address

Enclosures: Fee PaymentEvergreen, CO 80439

Address

 Reply Terminal Disclaimer Form Additional sheets containing statements establishing unintentional delay Other: Copy of correspondence previous (37 CFR 1.137(a))

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

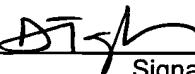
I hereby certify that this correspondence is being:

deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

May 4, 2004

Date



Signature

Dorothy L. Taylor

Type or printed name of person signing certificate



UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 07 2004

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RECEIVED Paper No. 5

WILLIAM ARTHUR TAYLOR
1326 ASPEN DRIVE
EVERGREEN CO 80439

MAY 10 2004

OFFICE OF PETITIONS

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OFFICE OF PETITIONS

ON PETITION

In re Application of
William Arthur Taylor
Application No. 10/045,250
Filed: November 7, 2001
Title of Invention: METHOD OF PLAYING AND
PAYING GAMBLING GAMES

This is a decision on the petition filed February 17, 2004, under 37 CFR 1.137(a)¹ to revive the above-identified application which is first treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on April 9, 2002, for failure to file a timely response to the Notice to File Missing Parts mailed February 8, 2002, which set a two (2) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed December 15, 2003.

Petitioner asserts that the Notice to File Missing Parts was never received.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner asserts that the Notice to File Missing Parts mailed February 8, 2002, was never received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's

¹A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from

statement.² The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g. if the practitioner has a history of not receiving Office actions).

The showing of record is insufficient to warrant withdrawal of the holding of abandonment. Petitioners have not presented any evidence that would indicate that the Office communication was not received. What is usually required is a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. As the required showing has not been presented, the petition must be dismissed.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".³ Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.⁴

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).⁵ Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.⁶

²M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

³35 U.S.C. § 133.

⁴In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

⁵See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

⁶Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

As the showing of record, petitioner's bald assertion that the Notice to File Missing Parts was never received, is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

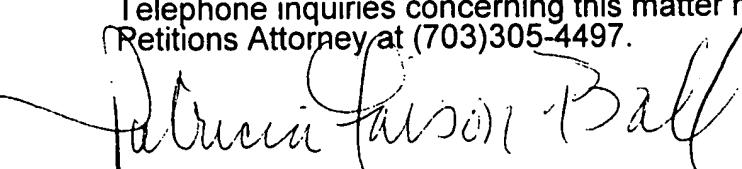
Should petitioner decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be \$665.00.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497.


Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
 UNITED STATES PATENT AND TRADEMARK OFFICE
 WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/045,250	11/07/2001	William Arthur Taylor	



CONFIRMATION NO. 2319
 FORMALITIES LETTER

OC00000007450725

MAY 10 2004

OFFICE OF PETITIONS

Date Mailed: 02/08/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is insufficient.
Applicant must submit \$ 15 to complete the basic filing fee for a small entity.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 80.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
 - drawings contain excessive text. Suitable descriptive legends may be used, or may be required by the Examiner where necessary for understanding of the drawing but should contain as few words as possible (see 37 CFR 1.84(o));

A copy of this notice MUST be returned with the reply.

D&C



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/045,250	11/07/2001	William Arthur Taylor	

WILLIAM ARTHUR TAYLOR
 1326 ASPEN DRIVE
 EVERGREEN, CO 80439



CONFIRMATION NO. 2319
ABANDONMENT/TERMINATION LETTER
RECEIVED 
 OC000000011484791
 MAY 10 2004
 Date Mailed: 12/15/2003
OFFICE OF PETITIONS

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 02/08/2002.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

*A copy of this notice **MUST** be returned with the reply.*

[Signature]
 Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



December 22, 2003

William Arthur Taylor
1326 Aspen Drive
Evergreen, CO 80439

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Application Number 10/045,250

Dear Sir or Madam:

Please revive my application based on 37 CFR 1.137(a) Unavoidable Delay.

(1) We have no record of your 02/08/2002 request prior to your Abandonment Letter dated 12/15/2003. It was just faxed to me, and I am promptly responding thereto with the substitute drawings and fees requested.

Further, please consider this as authorization to communicate with me by email on this application. My email address is: vistabillt@yahoo.com.

(2) The reply is attached hereto as new Exhibits 1, 2, 3, 4 along with the additional basic filing fee (\$15) and the late filing fee or surcharge requested (\$65).

(3) The petition fee is also included (\$55).

(4) Terminal disclaimer is not required (37 CFR 1.137(d)).

Please revive my pending application 10/045,250. If you have questions I can be reached days at 303) 279-0180. Thank you in advance.

Sincerely,

A handwritten signature in black ink, appearing to read "William Arthur Taylor".



WILLIAM A. TAYLOR
303 670-2842
1326 ASPEN DR.
EVERGREEN, CO 80439

form 37 CFR 1.7(6)

4439

23-7551/3020

Date 5-4-2004

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WILLIAM A. TAYLOR
303 670-2842
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EVERGREEN, CO 80439

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Common Video Poker Paytable

<u>Hand</u>	<u>Pays</u>
• Royal Flush	250:1
• Straight Flush	50:1
• Four of a Kind	25:1
• Full House	9:1
• Flush	6:1
• Straight	4:1
• Three of a Kind	3:1
• Two Pairs	2:1
• Pair of Jacks (or Better)	1:1
• Pair of Tens or Less	0:1

FIG. 1

Sample Bonus Blackjack Paytable

<u>Winning Hand Score or Event</u>	<u>Pays</u>
• 4 to 16	1:1
• 17	2:1
• 18	3:1
• 19	4:1
• 20	5:1
• 21	10:1
• 2 Card Blackjack	25:1

Note: Pays accompanied by return of bet.

FIG. 2

Sample Inverted Bonus Blackjack Paytable

	<u>Winning Hand Score</u>	<u>Pays</u>
•	4 - 16	5:1
•	17	2:1
•	18	1:1
•	19	1:1
•	20	1:1
•	21	1:1

Note: Pays accompanied by return of bet.

FIG. 3

Sample Double Bonus Blackjack Paytable

“Sweet Sixteen”

<u>Winning Hand Score or Event</u>	<u>Pays</u>
• 4 - 15	1:1
• 16	25:1
• 17	1:1
• 18	2:1
• 19	3:1
• 20	4:1
• 21	5:1
• 2-card Blackjack	10:1

Note: Pays accompanied by return of bet.

FIG. 4